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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,084

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Kazuhiro Yanagisawa

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

SCOTT, ANGELA C

ART UNIT

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1796

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,084	Applicant(s) YANAGISAWA ET AL.	
	Examiner Angela C. Scott	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's response of February 2, 2009 has been fully considered. Claims 1, 5, 6, 12, 13, and 15 have been amended and claims 3 and 4 have been cancelled. Claims 1, 2, and 5-15 are pending.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa et al. (US 2003/0088006).

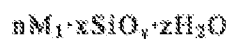
Regarding claim 1, Yanagisawa et al. teaches a method for producing a rubber master batch comprising the step of mixing a rubber latex (rubber solution) with a slurry of a filler dispersed into water (¶19).

Yanagisawa et al. does not teach that the mixing of the rubber solution and the slurry solution takes place in either a static mixer or a high shear mixer comprising a rotor and a stator portion. However, Yanagisawa et al. does teach that the aqueous slurry of filler is prepared by using a high-shear mixer of rotor-stator type (¶36). At the time of the invention, a person of ordinary skill in the art would have found it obvious to use a high-shear mixer of rotor-stator type to mix not only the slurry solution, as taught by Yanagisawa et al., but the rubber solution and the slurry solution together, and would have been motivated to do so because using a high-shear mixer will give the predictable result of dispersing one phase or ingredient (liquid, solid, gas) into a main continuous phase (liquid), with which it would normally be immiscible.

Yanagisawa et al. also does not teach using a shear speed of not less than 2000/s when mixing the latex and the filler solution. However, it is well known in the art to optimize result effective variables, such as the mixing speed (MPEP §2144.05). At the time of the invention, a person of ordinary skill in the art would have found it obvious to use a mixing speed of not less than 2000/s in the process as taught by Yanagisawa et al. and would have been motivated to do so in order to ensure proper mixing of the two slurries.

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Regarding claim 2, Yanagisawa et al. additionally teaches that the filler is selected from the group consisting of carbon black, silica, and an inorganic filler represented by the following formula:



wherein M_1 is at least one member selected from the group consisting of metals of aluminum, magnesium, titanium, calcium or zirconium, oxides of the preceding metals, hydroxides of the preceding metals, hydrates of the preceding oxides and hydroxides, and carbonates of the preceding metals; n is an integer of 1 to 5, x is an integer of 0 to 10, y is an integer of 2 to 5, and z is an integer of 0 to 10 (¶¶13-14).

Regarding claim 5, Yanagisawa et al. additionally teaches that the amide linkages in the natural rubber latex are cleaved with a protease (¶¶19 and 21).

Regarding claim 6, Yanagisawa et al. additionally teaches when the natural rubber latex (rubber solution) is mixed with the slurry solution, the mixture is coagulated (¶42) and has a water content of preferably 10% or more (¶45) and then the mixture is dried by applying a mechanical shearing force (¶44).

Regarding claim 7, Yanagisawa et al. additionally teaches that the drying under shear force can be carried out by using a known kneader, preferably by a continuous kneader in view of industrial productivity. More preferably, a corotating or counterrotating twin-screw kneading extruder is used (a screw-type continuous milling machine) (¶44).

Regarding claim 8, Yanagisawa et al. additionally teaches a natural rubber master batch obtained by the above methods (¶46).

Regarding claim 9, Yanagisawa et al. additionally teaches a natural rubber composition prepared by using the natural rubber master batch (¶47).

Regarding claims 10 and 11, Yanagisawa et al. additionally teaches that the rubber composition is applicable to tire applications as well as belts (¶115).

Regarding claim 12, Yanagisawa et al. additionally teaches that a flow of the slurry is mixed with a flow of the latex in order to create a hydraulic stirring (¶41). This would mean that they are substantially simultaneously charged.

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Claims 2, 8-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa et al. (US 2003/0088006) in view of Lopez-Serrano Ramos et al. (US 2002/0111413).

Regarding claim 13, Yanagisawa et al. teaches a method for producing a rubber master batch comprising the step of mixing a rubber latex (rubber solution) with a slurry of a filler dispersed into water (§19).

Yanagisawa et al. does not teach that the mixing of the rubber solution and the slurry solution takes place in a static mixer. However, Lopez-Serrano Ramos et al. teaches a rubber solution and a slurry solution being mixed with a static mixer (§57). Yanagisawa et al. and Lopez-Serrano Ramos et al. are analogous art because they are from the same field of endeavor, namely that of process of making filled rubber compositions. At the time of the invention, a person of ordinary skill in the art would have found it obvious to use a static mixer, as taught by Lopez-Serrano Ramos et al., to mix the rubber composition, as taught by Yanagisawa et al., and would have been motivated to do so because static mixers are standard mixers in the art and they are good for mixing together 2 liquids.

Regarding claim 2, Yanagisawa et al. additionally teaches that the filler is selected from the group consisting of carbon black, silica, and an inorganic filler represented by the following formula:



wherein M_1 is at least one member selected from the group consisting of metals of aluminum, magnesium, titanium, calcium or zirconium, oxides of the preceding metals, hydroxides of the preceding metals, hydrates of the preceding oxides and hydroxides, and carbonates of the preceding metals; n is an integer of 1 to 5, x is an integer of 0 to 10, y is an integer of 2 to 5, and z is an integer of 0 to 10 (§§13-14).

Regarding claim 8, Yanagisawa et al. additionally teaches a natural rubber master batch obtained by the above methods (§46).

Regarding claim 9, Yanagisawa et al. additionally teaches a natural rubber composition prepared by using the natural rubber master batch (§47).

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Regarding claims 10 and 11, Yanagisawa et al. additionally teaches that the rubber composition is applicable to tire applications as well as belts (¶115).

Regarding claim 14, Yanagisawa et al. additionally teaches that the rubber masterbatch is coagulated by using a coagulant (¶42).

Regarding claim 15, Yanagisawa et al. additionally teaches that a flow of the slurry is mixed with a flow of the latex in order to create a hydraulic stirring (¶41). This would mean that they are substantially simultaneously charged.

Response to Arguments

Applicant's arguments, see pages 6, filed February 2, 2009, with respect to the rejection(s) of claim(s) 12 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yanagisawa et al. (US 2003/0088006).

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments submitted February 2, 2009 with respect to the rejection of claims 2-11 and 13-15 under 35 U.S.C. 103(a) over Yanagisawa in view of Lopez-Serrano Ramos are not persuasive. Applicants argue that one of ordinary skill in the art, upon reading Lopez, would use a high shear mixer and not a static mixer. Lopez teaches that static mixers can be used for mixing a rubber solution and a filler slurry solution. A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989). MPEP 2123. Therefore, Lopez's teaching of static mixers is valid and applicable.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela C. Scott whose telephone number is (571) 270-3303. The examiner can normally be reached on Monday through Friday, 8:30am to 5:00pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/A. C. S./
Examiner, Art Unit 1796